

REMARKS

The present application includes pending claims 1-33, all of which have been rejected. No claims are amended by this response. Claims 1, 13, 20, and 26 are independent claims from which claims 2-12, 14-19, 21-25, and 27-33 depend, respectively.

The Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, USPTO personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, USPTO personnel should indicate how rejections may be overcome and how problems may be resolved. **A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.**

M.P.E.P. §2106(II) (emphasis added).

As such, the Applicants assume, based on the goals of patent examination noted above, that the current Office Action sets forth “all reasons and bases” for rejecting the claims.

Applicants also respectfully note that no claims are amended by this response. Therefore, no new issues are raised that would necessitate a yet another in a seemingly unending series of searches for “newly found art.”

Claims 1-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2002/0016971 (“Berezowski”) in view of U.S. 6,774,926 (“Ellis”), U.S. 2004/0125789 (“Parker”) and U.S. 7,321,969 (“Schoen”). The Applicants respectfully traverse these rejections for at least the reasons previously discussed during prosecution and the following:

Applicants respectfully submit that the proposed combination of Berezowski, Ellis, Parker, and Schoen does not render claims 1-33 unpatentable.

With respect to independent claim 1, Applicants respectfully submit that claim 1 recites, in part, “second software resident in a first memory at the first home configured to enable a user at the first home to construct, at the first home, the at least one user defined media channel, the second software also configured to enable closed and secure communication of the at least one user defined media channel to other members within the user defined group of users that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home.” Independent claims 13, 20, and 26 recite similar limitations.

The Office rejects claim 1 at pages 5-11 of the Office action. Applicants appreciate recognition by the Office that Berezowski does not teach certain aspects of claim 1, stating at page 7:

However, within the disclosure of Berezowski, it is unclear whether a graphical user interface, at the first home, having at least one view comprising a graphical representation of at least one user defined media channel for the communication of media comprising audio and/or video, the at least one user defined media channel comprising a graphical representation of a user selected and scheduled sequence of media content comprising audio and/or video,

the graphical user interface operable to allow a user to immediately establish and/or to schedule automatic establishment of one or more streaming media sessions; second software resident in a first memory at the first home configured to enable a user at the first home to construct, at the first home, the at least one user defined media channel; and communication of the at least one user defined media channel to other members that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home.

The Office then relies upon Ellis, and states the following at pages 7-8 of the Office action:

In a similar field of invention, Ellis teaches a method and system in which "contributors", such as individuals in a home, create personal television programs that can be distributed to multiple "viewers" over a communications network (Abstract). In particular, Ellis discloses that a Contributor 102 establishes times and dates in which the personal media is to be distributed and received by the Viewer 104 by way of Screen 196 of Fig. 14 (as described in Col. 11 Line 65—Col. 12 Line 3; with further reference to Col. 4 Lines 59-67). The Contributor can then use Submit Option 214 to transmit the personal channel to the Viewer, where the personal channel can then be played back in real time or from a suitable storage device (as described in Col. 12 Lines 8-53 and Col. 13 Line 29—Col. 14 Line 32; with further reference to the method of Fig. 15 and Col. 7 Lines 27-37).

As an initial matter, Applicants respectfully note that the Office merely describes what Ellis purportedly teaches and does not identify teachings of Ellis as corresponding to specific elements of Applicants' claim 1. Indeed, no reference to the language of Applicants' claim 1 is made. Instead, the Office simply provides a high-level description of what Ellis allegedly teaches, in isolation from the actual requirements of Applicants'

claim 1, and therefore does not demonstrate specifically what portion of Ellis allegedly teaches each of the elements admittedly missing from Berezowski.

The Office cites Ellis at col. 11, line 65 to col. 12, line 3; col. 4, lines 59-67; col. 12, lines 8-53; col. 13, line 29 to col. 14, line 32; and col. 7, lines 27-37 as teaching the aspects of claim 1 admittedly missing from Berezowski. Applicants respectfully note that the Office relies upon the cited portions of Ellis, and does not show where any other art provides support for a rejection of those aspects of claim 1 admittedly missing from Berezowski. Applicants now address each cited portion of Ellis, beginning with the passage at portion of col. 11, line 65 to col. 12, line 3, which is shown underlined in context, below:

Option 204 of screen 196 may be used by the contributor to establish the scheduled date on which the program is to be shown or to indicate that the program is available on demand. Options 206 and 208 may be used to establish the starting and ending times for a scheduled program. The title of the program may be entered using option 210. Option 212 allows the contributor to add a description for the program. Option 213 may be used to establish a viewer password. The system may only allow those viewers who supply this password (e.g., to a program guide) to view the program. The contributor may submit the information on screen 196 by selecting submit option 214. Scheduling information gathered using screen 196 may be stored in data storage facility 52. If desired, screen 196 may be provided to the contributor from a server running at data storage facility 52 that is accessed by the contributor over the Internet. Screen 196 may be, for example, a web page that the contributor may access from a set-top box browser or a computer browser, etc.

(emphasis added)

The portion of Ellis shown above simply teaches that “screen 196” may be used by a “contributor” to establish a date and starting and ending times when a program is to

be shown, or to indicate that a program is available “on demand,” and to enter a “program title” and a “program description.” The “screen 196” may be provided to the “contributor” from a server in “data storage facility 152,” and “scheduling information” from “screen 196” may be submitted to “data storage facility 52,” over the Internet, and stored on “data storage facility 52.” The above portion of Ellis does not, however, teach, suggest, or disclose “**communication of the at least one user defined media channel to other members** that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,**” as asserted by the Office. Instead, the cited portion of Ellis simply teaches a “contributor” entering and submitting “scheduling information” to a remote server over the Internet. Applicants now address Ellis at cited col. 4, lines 59-67 that is reproduced below, underlined in context:

Schedule information may be distributed to user equipment 34 from data storage facility 52 over communications network 40. The data storage functions of data storage facility 52 may be performed by one or more servers that may be located at one or more geographically distinct locations. Some of the data (e.g., all or part of the personal television channel program schedule information or the traditional television channel program schedule information) may be distributed in real time without storage. Data distribution may involve using continuous streams of data, periodic data distribution schemes (e.g., once per hour or once per day), on-demand data distribution schemes (e.g., client-server or distributed architectures), any other suitable schemes, or combinations of such schemes.

(emphasis added)

Here, Ellis explains that “schedule information” may be distributed to “user equipment 34” from “data storage facility 52,” which may include one or more “servers” at geographically distinct locations. The “schedule information” may be distributed “in real time,” without storage, and may be distributed as a continuous stream, or use

“periodic,” “on demand,” or other distribution schemes. Applicants respectfully submit that the portion of Ellis shown above does not, however, teach, suggest, or disclose **“communication of the at least one user defined media channel to other members** that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,”** as asserted by the Office. Instead, the cited portion of Ellis describes distribution of “scheduling information” from one or more servers to “user equipment” as a stream, a periodic transmission, upon demand, or “other suitable scheme[].” Applicants now review Ellis at cited col. 12, lines 8-53. Applicants addressed col. 12, lines 8-16, above, and now turn to col. 12, lines 17-25, shown below:

Illustrative steps involved in using system 30 (FIG. 1) to provide personal television channel programming are shown in FIG. 15. At step 216, a contributor may create video for personal television channel programming. Video may be captured for distribution in real time or may be captured to a hard disk for editing. Video may be recorded onto a tape or other suitable media. If desired, the contributor may edit a video recording at step 218. Capturing and editing software may be implemented on user equipment 34.

The portion of Ellis shown above simply describes two of the steps of FIG. 15, which is described by Ellis as “steps involved in using the system to provide personal television channel programming.” See *id.* at col. 2, lines 3-35. The cited portion above explains how a “contributor” may provide “personal television channel programming” by capturing video for distribution in real time, to a hard disk, to tape, or to other media, and that the user may capture and edit a video recording on “user equipment 34.” The cited portion of Ellis shown above does not, however, teach, suggest, or disclose **“communication of the at least one user defined media channel to other members**

that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,**” as asserted by the Office.

Although Ellis mentions “distribution” in this cited passage, Ellis does not teach, suggest, or disclose that such “distribution” is “**to other members** that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,**” as required by claim 1. Claim 1 also requires that the communication is of “at least one user defined media channel,” and defines the “at least one user defined media channel” as comprising a “a graphical representation of a user selected and scheduled sequence of media content.” The cited portion of Ellis shown above does not teach, suggest, or disclose that any “distribution” of the captured video is “user scheduled” (i.e., according to the “scheduling information” submitted by the “contributor”), which the Office seems to suggest teaches the related aspect of Applicants claim 1, nor does Ellis teach that such “captured video” comprises a “graphical representation” of a “user selected and scheduled sequence” of “media content,” as more completely recited by claim 1.

In addition, Applicants respectfully submit that Ellis teaches that the “scheduling information” gathered using “screen 196” is submitted to “data storage facility 52.” See *id.* at col. 11, line 65 to col. 12, line 3. Although Ellis discloses that “[s]chedule information may be distributed to user equipment 34 from data storage facility 52 over communications network 40” (col. 4, lines 69-61), the cited portion of Ellis does not teach that the “user equipment 34” uses such “scheduling information” for scheduling communication of the “captured video.” Further, Applicants respectfully submit that the Office does not identify any of the remaining art as teaching Applicants’ “at least one

user defined media channel” which comprises “a graphical representation of a user selected and scheduled sequence of media content.” Therefore, for at least the reasons set forth above, Applicants respectfully submit that the portion of Ellis at col. 12, lines 8-25 does not teach, suggest, or disclose, at least, **“communication of the at least one user defined media channel to other members** that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,”** which was asserted by the Office as being taught by Ellis. Applicants now review Ellis at cited col. 12, lines 26-57, shown below:

At step 220, the contributor may schedule personal television channel programming and may provide schedule information to a program schedule database. The schedule information that is provided may include category information (e.g., information on the genre of the personal television channel programming-sports, comedy, news, etc.), ratings information (e.g., parental control ratings, star or critics ratings, etc.), and information on web links associated with the personal television channel programming. The contributor may provide schedule information to data storage facility 52 using a personal television channel scheduler of the type illustrated in FIG. 14. The schedule information may be stored in a program schedule database with traditional television channel schedule information as shown in FIG. 2 if desired. The video for the personal television channel programming may be transmitted from user equipment 34 at step 222. The video may be transmitted in real time or may be played back from a suitable storage device. If desired, the video may be received at an intermediate transmission facility (e.g., one of the servers) at step 224 and retransmitted at step 226. Step 226 may be performed, for example, when requested by a viewer or at a scheduled broadcast time. Scheduled broadcast times from the intermediate transmission facility may be determined at step 222 by agreement between the contributor and the operator of the intermediate transmission facility. The operator may, e.g., make a certain number of broadcast times available to contributors on a first-come-first-served basis. Once the contributor has been assigned a time slot, the contributor (or the operator of the intermediate facility) may provide

appropriate schedule information to data storage facility 52
at step 220.

The cited portion of Ellis shown above describes additional steps of FIG. 15, and also mentions a “contributor” providing “schedule information” to “data storage facility 52.” In this cited passage, Ellis explains that video for the “personal television channel programming” may be transmitted from “user equipment 34,” and may be transmitted in “real time” or may be played back from a suitable storage device, received at an intermediate transmission facility, and retransmitted upon demand or at a scheduled broadcast time. Such retransmission is not, however, **“communication of the at least one user defined media channel to other members** that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,”** as required by claim 1. Applicants respectfully submit that this portion of Ellis does not make any mention of the “user equipment 34” operating according to the “schedule information” submitted by the “contributor” to “data storage facility 52,” previously discussed above. In addition, Ellis does not teach, suggest, or disclose that “the video for the personal television channel programming” transmitted by the “contributor” comprises “a graphical representation of a user selected and scheduled sequence of media content,” but is instead simply “video.” Therefore, Applicants respectfully submit that this cited portion of Ellis does not teach, suggest, or disclose **“communication of the at least one user defined media channel to other** members that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,”** as asserted by the Office, and does not teach at least these aspects of claim 1.

Applicants now turn to the portion of Ellis at col. 13, line 29 to col. 14, line 32, which due to its size will not be reproduced here.

Applicants respectfully submit that the cited portion of Ellis at col. 13, line 29 to col. 14, line 32 relates to FIG. 16, described by Ellis as a “flow chart of illustrative steps involved when a viewer accesses schedule information and receives programming.” See *id.* at col. 2, lines 36-38. In the cited portion, Ellis explains that, at step 228, the viewer may be provided with an opportunity to select certain programs or channels as being favorites, and at step 230, video may be received at one or more user equipment locations in real time or on demand. Ellis also describes that at step 232, video programming is collected from multiple contributors, and that at step 234, personal television channel program schedule information may be collected from the contributors. Ellis teaches that at step 236, information related to the programming (e.g., program descriptions or channel descriptions) may be collected from contributors, and at step 238, schedules and program information are provided to viewers. Ellis explains that, at step 240, system 30 makes personal television channel programming available to viewers, and that step 240 may involve making personal television channel programming from the contributor available to viewers in other cable systems or to other viewers in the same cable system, and may also involve making programming available over the Internet. The cited portion of Ellis at col. 13, line 29 to col. 14, line 32 does not, however, teach, suggest, or disclose, at least, “**communication of the at least one user defined media channel to other members** that are at separate and distinct locations from the first home, **in a peer-to-peer manner, from the first home,**” as required by claim 1. Applicants respectfully submit that Ellis does not teach, suggest, or

disclose that “personal television channel programming” made available to viewers comprises “a graphical representation of a user selected and scheduled sequence of media content,” as required by claim 1. Applicants now address the remaining cited portion of Ellis at col. 7, lines 27-37, which is shown below:

The user equipment from which contributors distribute videos may be referred to as contributor equipment and the user equipment at which videos are received and viewed by viewers may be referred to as viewer equipment. Personal television channel videos may be distributed from the contributor equipment to the viewer equipment using various techniques. As shown in FIG. 7, for example, a video created by a contributor at user equipment 102 may be distributed to viewers at receiving user equipment 104 via communications network 106 and Internet service provider (ISP) 108. Videos may be distributed this way in real time.

Applicants respectfully submit that while this last cited portion from col. 7, lines 27-37 of Ellis describes distribution of “videos,” and that “a video created by a contributor at user equipment 102 may be distributed to viewers at receiving user equipment 104 via communications network 106 and Internet service provider (ISP) 108,” this cited portion of Ellis also does not teach, suggest, or disclose , **“communication of the at least one user defined media channel to other members that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home,”** as required by claim 1. Applicants respectfully submit that Applicants’ claimed “media channel” comprises “a graphical representation of a user selected and scheduled sequence of media content comprising audio and/or video.” Thus, Applicants’ claim 1 recites “media content” separate from a “graphical representation of a user selected and scheduled sequence” of such “media content.”

The cited portion of Ellis at col. 7, lines 27-37 does not teach a “contributor” communicating such a “media channel” comprising “a graphical representation of a user selected and scheduled sequence” of “media content” comprising “audio and/or video,” but instead describes distribution of only “videos,” and makes no mention of a “graphical representation” being distributed. Thus, for at least this reason, Applicants respectfully submit that this cited portion of Ellis also does not teach, suggest, or disclose **“communication of the at least one user defined media channel to other members that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home,”** as required by claim 1.

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the extensively cited Ellis does not teach, suggest, or disclose, at least, **“communication of the at least one user defined media channel to other members that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home,”** as asserted by the Office, and which the Office recognizes is not taught by Berezowski. Applicants respectfully submit that because Ellis does not teach what was asserted by the Office, Ellis also does not teach, suggest, or disclose “the second software also configured to enable closed and secure communication of the at least one user defined media channel to other members within the user defined group of users that are at separate and distinct locations from the first home, in a peer-to-peer manner, from the first home,” as recited by Applicants’ claim 1. Further, Applicants respectfully note that the Office does not assert that any other art, including the remaining cited art, teaches, suggests, or discloses at least this aspect of Applicants’ claim 1. The Office has admitted that Berezowski does not teach at least

this aspect of claim 1. In addition, Applicants have demonstrated that Ellis also does not teach this aspect of claim 1. Further, the Office has not asserted that any other cited art teaches this aspect of claim 1. Therefore, it necessarily follows that the proposed combination of references cannot, by definition, teach at least this aspect of claim 1, that the cited art does not teach, suggest, or disclose all aspects of claim 1, that claim 1 is not rendered unpatentable by the cited art, and that claim 1, and any claims that depend therefrom are allowable over the cited art. Applicants respectfully submit that claim 1 is allowable over the cited art for at least an additional reason.

Applicants respectfully submit that claim 1 also recites, in part, “first software that maintains a user defined group of users comprising the first and second users, wherein the user defined group of users is closed and secure with respect to others that are not members of the user defined group of users, wherein a member within the user defined group of users can privately share media content comprising audio and/or video with one or more other members within the user defined group of users.” Claims 13, 20, and 26 recite similar features.

Applicants appreciate recognition in the Office action, at pages 10-11, of the following:

The combination of Berezowski, Ellis, and Parker does not explicitly teach wherein the user defined group of users is closed and secure with respect to others that are not members of the user defined group of users, wherein a member within the user defined group of users can privately share the media content comprising audio and/or video with one or more other members within the user defined group of users and the second software also configured to enable closed and secure communication within the user defined group of users.

To overcome the admitted shortcomings of Berezowski, Ellis, and Parker, the Office turns to Schoen stating, in part, at page 11:

In a similar field of invention, Schoen teaches a method and system for facilitating instant messaging using a secure instant message group policy certificate (Abstract). In particular, Schoen teaches the use of Instant Messaging Server 12 of Fig. 1 that is in communication with Instant Messaging Devices 14 and 16, such as televisions (as disclosed in Col. 6 Lines 1-43). Schoen further teaches allowing a user to select a desired group of buddies for designation on a secured buddy list (as described in Col. 10 Line 53—Col. 11 Line 47 and shown in Steps 400-404 of Fig. 4)

Therefore, the Office seems to identify the “secured buddy list” of Schoen as teaching Applicants’ claimed “user defined group of users.” Applicants respectfully submit that the cited portion of Schoen at col. 10, line 53 to col. 11, line 47 relates to FIG. 4 of Schoen, which Schoen describes as “a flow chart illustrating one example of a method for facilitating instant messaging.” See *id.* at col. 7, lines 37-39. Schoen states, at col. 10, line 64 to col. 11, line 1, “the method includes providing a 65 user interface, by generating a user interface 313 through the instant messaging proxy 22a so that a user may select a desired group of buddies for designation on the secured buddy list.” Thus, Schoen teaches that a user selects a “desired group of buddies” for a “secured buddy list.”

Applicants respectfully submit that Applicants’ claim 1 recites that Applicants’ claimed “user defined group of users” includes “the first and second users.” The cited portion of Schoen, however, does not teach, suggest, or disclose that the user who selects the “desired group of buddies” is a member of the “secured buddy list.” Thus, Applicants respectfully submit that Schoen does not teach that a “secured buddy list” of

one of a “first user” and a “second user,” that may include the other of the “first user” and “second user,” would include both of the “first user” and the “second user,” as required by claim 1.

Further, Schoen also fails to teach, suggest, or disclose that any user included in the “secured buddy list” of a “third user” is able to communicate with any other user of the “secured buddy list” of the “third user,” and thus does not teach, suggest, or disclose “wherein a member within the user defined group of users can privately share media content comprising audio and/or video with one or more other members within the user defined group of users,” as required by Applicants’ claim 1. Instead, Schoen teaches that “a graphic user interface may be presented with blank fields for a user to type a buddy identifier (e.g., name or email address) and to designate whether or not **that buddy** should receive and send encrypted information and/or signed information.” Schoen also discloses that “[t]he information input by the user is then recorded in a database or file by the secure buddy list generator 318. Once the user has completed entering this buddy identification data for buddies that are to be communicated with securely via public key infrastructure cryptography, the buddy list may be digitally signed by the local secure instant messaging secure public key infrastructure proxy **to form the secure buddy list 320.**” See *id.* at col. 11, lines 1-12. Applicants have been unable to identify where Schoen offers any teaching where two members of any “secured buddy list” are either explicitly or inherently able to communicate in the manner required by claim 1.

Therefore, Applicants respectfully submit that Schoen does not teach, suggest, or disclose “wherein a member within the user defined group of users can privately

share media content comprising audio and/or video with one or more other members within the user defined group of users," as required by Applicants' claim 1. Applicants respectfully submit that the Office admits that the remaining cited art does not teach at least this aspect of Applicants' claim 1. Therefore, Applicants respectfully submit that because the Office has admitted that none of Berezowski, Ellis, and Parker teach at least this aspect of Applicants' claim 1, and Applicants' have now shown that Schoen also does not teach at least this aspect of claim 1, it necessarily follows that the proposed combination of Berezowski, Ellis, Parker, and Schoen cannot, by definition, teach at least this aspect of claim 1. Applicants therefore respectfully submit that the cited art does not teach all aspects of claim 1, that claim 1 not rendered unpatentable by the cited art, and that claim 1, and any claims that depend therefrom, are allowable over the cited art for at least this additional reason.

With respect to independent claims 13, 20, and 26, Applicants respectfully submit that the independent claims 13, 20 and 26 recite similar features and were rejected over the same art for the same reasons as claim 1, and that those claims and their respective dependent claims, are allowable over the cited art for at least some of the reasons set forth above with respect to claim 1.

Therefore, based at least upon the above, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness over the cited art with respect to claims 13, 20, and 26, or any of their respective dependent claims, that claims 13, 20, and 26 are also not rendered unpatentable by the cited art, and that claim 13, 20, and 26, and any claims that depend therefrom, are also allowable over the cited art.

Accordingly, Applicants respectfully request that the rejection of claims 1-33 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (*e.g.*, if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request reconsideration of the claim rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned.

The Commissioner is authorized to charge any fees required by this submission, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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